



## 22 CFR Part 126

[Public Notice: 11858]

RIN 1400-AF58

### International Traffic in Arms Regulations: Prohibited Exports, Imports, and Sales to or from Certain Countries - Cyprus

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department of State is amending the International Traffic in Arms Regulations (ITAR) to reflect current defense trade policy towards Cyprus.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Sarah Heidema, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663-1282, or e-mail [DDTCCustomerService@state.gov](mailto:DDTCCustomerService@state.gov). ATTN: Regulatory Change, ITAR Section 126.1 Cyprus Country Policy Update.

**SUPPLEMENTARY INFORMATION:** Section 1250A(d) of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92) and section 205(d) of the Eastern Mediterranean Security and Energy Partnership Act of 2019 (Pub. L. 116-94, Div. J.) provide that the policy of denial for exports, re-exports, and transfers of defense articles on the United States Munitions List to the Republic of Cyprus shall remain in place unless the President determines and certifies to the appropriate congressional committees not less than annually that: (A) the Government of the Republic of Cyprus is continuing to cooperate with the United States Government in efforts to implement reforms on anti-money laundering regulations and financial regulatory oversight; and (B) the Government of the Republic of Cyprus has made and is

continuing to take the steps necessary to deny Russian military vessels access to ports for refueling and servicing.

On April 14, 2020, the President delegated to the Secretary of State the functions and authorities vested by section 1250A(d) of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92) and section 205(d) of the Eastern Mediterranean Security and Energy Partnership Act of 2019 (Pub. L. 116-94, Div. J.) (85 FR 35797, June 12, 2020). On September 12, 2022, utilizing these authorities, the Secretary of State certified to the appropriate congressional committees that the Republic of Cyprus meets the statutory requirements to remove the policy of denial for exports, re-exports, and transfers of defense articles to the Republic of Cyprus for fiscal year 2023. The Secretary of State further approved the suspension of the policy of denial for exports, reexports, and transfers of defense articles and defense services to the Republic of Cyprus for fiscal year 2023. In conjunction with the Secretary of State's decision, the Under Secretary for Arms Control and International Security used the Department's delegated authority (Executive Order 13637) under the Arms Export Control Act (22 U.S.C. 2751 et seq.) to suspend the policy of denial for retransfers and temporary imports destined for or originating in the Republic of Cyprus and brokering activities involving the Republic of Cyprus for fiscal year 2023. Accordingly, the Department now amends section 126.1 of the International Traffic in Arms Regulations (22 CFR parts 120 through 130) to specify that the Republic of Cyprus' status as a proscribed destination is suspended from October 1, 2022, through September 30, 2023. As a result of this change, certain exemptions to licensing requirements are now available for exports, re-exports, retransfers, and temporary imports destined for or originating in the Republic of Cyprus and brokering activities involving the Republic of Cyprus, provided the conditions for use of those exemptions are met. Applications for licenses and other authorizations submitted to the Directorate of Defense Trade Controls involving the Republic of Cyprus and nationals of the Republic of Cyprus are subject to case-by-case review.

## **REGULATORY ANALYSIS AND NOTICES**

### *Administrative Procedure Act*

The Department of State (the Department) is of the opinion that controlling the import and export of defense articles and services is a military or foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act (APA), pursuant to 5 U.S.C. 553(a)(1). Since the Department is of the opinion that this rule is exempt from 5 U.S.C. 553, it is the view of the Department that the provisions of section 553 do not apply to this rulemaking.

### *Regulatory Flexibility Act*

Since this rule is exempt from the notice-and-comment provisions of 5 U.S.C. 553(b), it does not require analysis under the Regulatory Flexibility Act.

### *Unfunded Mandates Reform Act of 1995*

This rulemaking does not involve a mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### *Congressional Review Act*

The Department does not believe this rulemaking is a major rule within the definition of 5 U.S.C. 804.

### *Executive Orders 12372 and 13132*

This rulemaking will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism

implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

#### *Executive Orders 12866 and 13563*

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). Because the scope of this rule does not impose additional regulatory requirements or obligations, the Department believes costs associated with this rule will be minimal. This rule has been designated a “significant regulatory action” by the Office and Information and Regulatory Affairs under Executive Order 12866.

#### *Executive Order 12988*

The Department reviewed this rulemaking in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

#### *Executive Order 13175*

The Department determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

#### *Paperwork Reduction Act*

This rule does not impose or revise any information collections subject to 44 U.S.C. chapter 35.

### **List of Subjects in 22 CFR Part 126**

Arms and munitions, Exports

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 126 is amended as follows:

## **PART 126 – GENERAL POLICIES AND PROVISIONS**

1. The authority citation for part 126 is revised to read as follows:

**Authority:** 22 U.S.C. 287c, 2651a, 2752, 2753, 2776, 2778, 2779, 2779a, 2780, 2791, 2797; Sec. 1225, Pub. L. 108-375, 118 Stat. 2091; Sec. 7045, Pub. L. 112-74, 125 Stat. 1232; Sec. 1250A, Pub. L. 116-92, 133 Stat. 1665; Sec. 205, Pub. L. 116-94, 133 Stat. 3052; E.O. 13637, 78 FR 16129, 3 CFR, 2013 Comp., p. 223.

2. Amend § 126.1 by adding paragraph (r) to read as follows:

### **§ 126.1**

\* \* \* \* \*

(r) *Cyprus*. It is the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in Cyprus, except that a license or other approval may be issued, on a case-by-case basis, for the United Nations Forces in Cyprus (UNFICYP) or for civilian end-users. This policy of denial, and the status of Cyprus as a proscribed destination, is suspended from October 1, 2022, through September 30, 2023.

\* \* \* \* \*

**Bonnie Jenkins,**

*Under Secretary,*

*Arms Control and International Security,*

*Department of State.*

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